United Nations A/HRC/37/G/3

General Assembly

Distr.: General
8 March 2018

Original: English

Human Rights Council
Thirty-seventh session
26 February-23 March 2018
Agenda item 4
Human rights situations that require the Council's attention

Letter dated 26 February 2018 from the Permanent Representative of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

I have the honour to transmit herewith the joint statement of the Ministry of Foreign Affairs and the Prosecutor General's Office of the Republic of Azerbaijan on the twenty-sixth anniversary of the Khojaly genocide (see annex).

I would be highly appreciative if you could kindly circulate the present letter and the annex thereto* as a document of the thirty-seventh session of the Human Rights Council under agenda item 4.

(*Signed*) Vaqif **Sadiqov**

Ambassador, Permanent Representative

* Reproduced as received, in the language of submission only.

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Annex to the letter dated 26 February 2018 from the Permanent Representative of Azerbaijan to the United Nations Office at Geneva addressed to the President of the Human Rights Council

Joint Statement by the Ministry of Foreign Affairs and the Prosecutor General's Office of the Republic of Azerbaijan on the 26th anniversary of the Khojaly genocide

The Republic of Armenia bears the responsibility for overtly supporting aggressive separatism and state sponsored terrorism in Nagorno-Karabakh region of Azerbaijan since late 1980s, unleashing the war and by use force occupying one fifth of Azerbaijan's territories, carrying out ethnic cleansing of more than million Azerbaijanis in Armenia and in the seized lands of Azerbaijan and committing numerous war crimes, crimes against humanity, and acts of genocide.

In the course of the war the capture of Khojaly town was particularly tragic. Before the conflict, 7,000 people lived in this town of the Nagorno-Karabakh region of Azerbaijan. From October 1991, the town was entirely surrounded by the armed forces of Armenia. Over the night of the 25 to 26 February 1992, following massive artillery bombardment of Khojaly, the armed forces of Armenia, with the help of the infantry guards regiment No.366 of the former Union of Soviet Socialist Republics (USSR), implemented the seizure of Khojaly. Invaders destroyed Khojaly and with particular brutality implemented carnage over its peaceful population.

As a result of the Khojaly genocide 5379 inhabitants of the city were deported, 613 people, including 63 children, 106 women brutally murdered, 8 families were completely destroyed, 487 were injured, 1275 were captured and taken hostage. The fate of 150 people, including 68 women and 26 children, remains unknown to date. By the occupation of Khojaly damage exceeding 170 million USD has been inflicted to the Government of Azerbaijan and individual nationals.

The overall assessment of the causes and consequences of the war unleashed by the Republic of Armenia against the Republic of Azerbaijan and all existing facts of the tragic events in Khojaly make it absolutely clear that the crimes committed in that town of Azerbaijan was not an isolated or sporadic act, but was part of Armenia's widespread and systematic policy and practice of atrocities, at the core of which are odious ideas of racial superiority, ethnic discrimination and hatred. The intentional slaughter of the civilians in Khojaly was directed at their mass extermination only because they were Azerbaijanis.

Khojaly massacre and other war crimes, crimes against humanity and genocide committed by Armenia in the course of the ongoing aggression against the Republic of Azerbaijan constitute a serious violation of international humanitarian and human rights law, in particular the 1949 Geneva Conventions, the Convention on the Prevention and Punishment of the Crime of Genocide, the International Covenant on Civil and Political Rights, the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the International Convention on the Elimination of All Forms of Racial Discrimination, the Convention on the Rights of the Child and the Convention for the Protection of Human Rights and Fundamental Freedoms.

The investigation conducted by the Military Prosecutor's Office of the Republic of Azerbaijan has fully proved involvement of a number of military servicemen and other persons in the perpetration of the Khojaly genocide. The investigation made decisions on their accusation according to the articles of the Criminal Code of Azerbaijan on genocide, torture, deportation of the population, violation of international humanitarian law during the armed conflict and other criminal offenses.

As a result of an investigation into the Khojaly genocide episode, 3,000 were interrogated as witnesses and victims, and 2,000 were recognized as victims, and over 800 different examinations and other investigative measures were conducted.

In its judgment of 22 April 2010, the European Court of Human Rights arrived at an important conclusion with respect to the crime committed in Khojaly, qualifying the behavior of those carrying out the incursion as "acts of particular gravity which may amount to war crimes or crimes against humanity". The national legislative bodies of more than 15 States, as well as the Organization of Islamic Cooperation adopted a number of resolutions and declarations on condemning in strongest terms the massacre of civilian population in Khojaly and recognizing the tragedy of Khojaly as an act of genocide and crime against humanity.

In total disregard of the position of the international community, demands of the UN Security Council Resolutions on immediate, unconditional and full withdrawal of occupying forces from the seized lands of Azerbaijan and in flagrant violation of international law, Armenia continues to undertake efforts aimed at further consolidating the current status quo of the occupation, strengthening its military build-up in the seized territories, changing their demographic, cultural and physical character and preventing the hundreds of thousands of Azerbaijani forcibly displaced persons from returning to their homes and properties in those areas and regularly attacking civilians living densely along the Line of Contact and border areas between Armenia and Azerbaijan. With the support of corrupt foreign politicians and lobby groups Armenia is engaged in active disinformation and fake news campaign to propagate the illegal puppet regime established in occupied lands of Azerbaijan, which is nothing other than result of military aggression, occupation and notorious ethnic cleansing.

Alongside the Republic of Armenia's responsibility as a State for internationally wrongful acts, under the customary and treaty norms of international criminal law, certain acts perpetrated in the context of an armed conflict, including those in the town of Khojaly, are viewed as international criminal offences and responsibility for them is borne on an individual basis by those who participated in the said acts, their accomplices and accessories.

It is well known that both the present and former leadership of Armenia, together with many other high-ranking political and military officials of that State and leaders of the separatist regime set up by Armenia in the occupied territory of Azerbaijan, personally participated in seizing Azerbaijani lands and in the reprisals against Azerbaijani civilians and militaries, including in Khojaly.

In his cynical admission of culpability, Armenia's then-Defense Minister and current President, Serzh Sargsyan, was quoted by the British journalist Thomas de Waal, as saying, "before Khojali, the Azerbaijanis thought that ... the Armenians were people who could not raise their hand against the civilian population. We were able to break that [stereotype]" (Thomas de Waal, Black Garden: Armenia and Azerbaijan through Peace and War (New York and London, New York University Press, 2003), p. 172)).

It is incontrovertible today that no official or political status cloaks the person concerned with immunity for the most serious international crimes, such as war crimes, crimes against humanity, genocide and ethnic cleansing.

The Republic of Azerbaijan is confident that the consistent measures being taken at the national level, as well as the existing international legal framework, will serve to bring to justice those responsible for the grave offences committed against the civilian population of Azerbaijan during the conflict.

Baku, 25 February 2018